

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.81 of 2010

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1. The Bihar State Housing Board, Patna through its Chairman.
 2. The Chairman, Bihar State Housing Board, Patna.
 3. The Managing Director, Bihar State Housing Board, Patna.
 4. The Manager, Land Estate Officer I-cum-Additional Joint Secretary-cum-Additional Secretary, Bihar State Housing Board, Patna.
Above 1 to 4, having their offices at 6, Sardar Patel Marg, Police Station-Secretariat, Patna 800015.
 5. The Executive Engineer, Bihar State Housing Board, Patna Division-2, Patna 800020.

... .. Petitioner/s

Versus

Shri Parmeshwar Dayal Sinha, son of Late Rama Pati Sinha, resident of village and P.O.- Dhibra, Police Station- Phulwarishariff, (Parsa Bazar), District Patna and at present residing at C/o. Modern Scientific Stores, Mohalla- Ram Krishna Avenue, Nala Road, Post Office- Kadamkuan, Patna 800013, Town and District Patna, State- Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anshuman Singh, Adv.
For the Respondent/s : M/s Mukeshwar Dayal and Vikas Mohan, Advs.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

40 07-01-2019 Heard the parties.

2. In the present case, the petitioner is seeking modification of the order dated 07.11.2009 passed in C.W.J.C. No. 10835 of 2003 by which the Court has directed for return of the amount with 12% half yearly interest is the cause for filing the present application for modification.

3. As per the learned counsel for the petitioner that as per the Digha Acquired Land Settlement Act, 2010, the maximum interest would be given is the 8% whereas the amount has to be returned at the rate of 12% half yearly interest, so it



requires modification in the interest portion.

4. The learned counsel for the other side has argued that the claim for modification for interest is not sustainable on two counts, first it is nothing but review of the order which cannot be entertained in the shape of modification of the order, as the Board has been directed for payment of amount along with 12% half yearly interest. Second, if they were aggrieved, they should have been gone to the higher level, but instead of availing that remedy this application for modification has been filed, inasmuch as the Digha Acquired Land Settlement Act, 2010 is not applicable in view of the fact that the order in question has been passed on 07.11.2009 before the enforcement of the said Act.

5. In such view of the matter, there cannot be any modification or review of the interest which has been directed to be paid by the Board in favour of the petitioner.

6. This Court finds substance in the argument of the other side, as in the present form the order dated 07.11.2009 cannot be reviewed rather the petitioner if so aggrieved should have approached to the higher level in Division Bench, but preferred this application inasmuch as in view of the Division Bench judgment reported in 2016 (4) PLJR 521 (Bihar State



Housing Board vs. Chitalekha Singh) nothing left to be modified on merit also.

7. In this view of the matter, this application is accordingly dismissed.

8. The learned counsel for the both sides have stated that some payment has been made, not the entire payment has been made. It is expected that the rest payment would be made to the petitioner within a reasonable period, preferably within a period of ten weeks from the date of receipt/production of a copy of this order.

(Shivaji Pandey, J)

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